

APPENDIX D

FedEx Ground's Appendix D:
Table Summarizing Factual Differences Among California Long Haul Drivers in Proposed Class¹

Driver	Interaction with FedEx Ground?	Worked in a Team?	Offered Benefits From Service Provider?	Instructed to Take Breaks?	Took Breaks?	Told FedEx Ground Was Not Employer?	Pay Method?	Paid Overtime or For Time at Station or Rest Stop?	Wore Uniform?
Plaintiff Shannon Sobaszekiewicz	Regular—FedEx Ground employees at station provide “load slip” with delivery deadline; and call to “pressure” her to keep moving. ²	Yes ³	Reimbursed her for some of trucking school. ⁴	No ⁵	Typically no breaks other than interrupted time in sleeper berth. ⁶	No ⁷	Unsure how paid. ⁸	No—not paid for time in sleeper berth or nondriving tasks. ⁹	No ¹⁰
Jack Arballo	Frequent contact. ¹¹	Unknown	No ¹²	Depends on the Service Provider—some yes, some no. ¹³	Rarely; however, “sometimes” had meals in the truck but responsible for the truck and answering phone calls. ¹⁴	Yes but only after the probation period. ¹⁵	Previous Service Providers: percentage of what Service Provider makes on the route. Current Service Provider: hourly. ¹⁶	No ¹⁷	Yes ¹⁸
Michael Barker	Constant ¹⁹	Unknown	One Service Provider provided paid vacation; no benefits at other two. ²⁰	Depends on Service Provider—some yes, some no. ²¹	Yes, while based out of Tracy terminal. ²²	Yes ²³	Varied—salaried or salaried with additional pay for extra work or certain number of miles. ²⁴	No ²⁵	Unknown

Driver	Interaction with FedEx Ground?	Worked in a Team?	Offered Benefits From Service Provider?	Instructed to Take Breaks?	Took Breaks?	Told FedEx Ground Was Not Employer?	Pay Method?	Paid Overtime or For Time at Station or Rest Stop?	Wore Uniform?
Daived Ginn	Minimal and not direct. ²⁶	Yes ²⁷	Yes – health insurance, but declined it. ²⁸	Yes ²⁹	Yes, unless on a delayed or “hot run.” ³⁰	No—told FedEx Ground was his employer. ³¹	By the mile; greater pay for longer routes. ³²	No ³³	Occasionally ³⁴
David Ferras	Occasionally ³⁵	Yes ³⁶	Not at first; health insurance after 1-2 years. ³⁷	No, but knew rules from prior employer. ³⁸	Yes, as to lunch breaks. ³⁹	Yes ⁴⁰	By the mile. ⁴¹	No, ⁴² but paid for “sleeper birth” time. ⁴³	No ⁴⁴
Mark Kennedy	Substantial ⁴⁵	Usually yes, although sometimes drove solo. ⁴⁶	Depends on Service Provider—some yes, some no. ⁴⁷	Yes ⁴⁸	Sometimes ⁴⁹	No ⁵⁰	By the mile; some Service Providers also offered bonus, wait time compensation, and per diem amount. ⁵¹	No ⁵²	Yes ⁵³
Richard Perea	Regular ⁵⁴	Yes ⁵⁵	No ⁵⁶	Yes ⁵⁷	Depended on the circumstances but on average, at least one break per day. ⁵⁸	Unknown	50 cents per mile split. ⁵⁹	No ⁶⁰	Depends on Service Provider—one yes, one no. ⁶¹
Joaquin Salas	Minimal contact while on road ⁶² ; regular contact at station. ⁶³	Yes ⁶⁴	No ⁶⁵	No ⁶⁶	Yes, as to 30-minute lunch break; other stops were short. ⁶⁷	Yes, but about 6 to 8 months into job. ⁶⁸	By the mile. ⁶⁹	No, ⁷⁰ but was paid hourly if had a layover. ⁷¹	Eventually with one Service Provider; no with others. ⁷²

Driver	Interaction with FedEx Ground?	Worked in a Team?	Offered Benefits From Service Provider?	Instructed to Take Breaks?	Took Breaks?	Told FedEx Ground Was Not Employer?	Pay Method?	Paid Overtime or For Time at Station or Rest Stop?	Wore Uniform?
Edward Scott	FedEx Ground “handed down” work to his Service Provider. ⁷³	Usually, ⁷⁴ although sometimes drove solo. ⁷⁵	Unsure ⁷⁶	No, ⁷⁷ but was told to break for safety reasons. ⁷⁸	Rested in sleeper berth. Rarely stopped unless for fuel. ⁷⁹	Yes ⁸⁰	Per trip and by the mile. ⁸¹	Unclear, but gave contradictory testimony as to whether was paid for “sleeper berth” time. ⁸²	No ⁸³
Kim Smock	Occasionally during route ⁸⁴ ; regular contact at station. ⁸⁵	No	No ⁸⁶	No ⁸⁷	Sometimes ⁸⁸	Yes ⁸⁹	Weekly ⁹⁰	No ⁹¹	Yes ⁹²
Alan Tennant	Unknown	No ⁹³	Unknown	Yes ⁹⁴	Yes ⁹⁵	“No doubt that [Service Provider] is employer” ⁹⁶	Unknown	Unknown	Unknown

¹ Citations are to the exhibits to the Declaration of Sean F. Daley in Support of FedEx Ground’s Opposition to Class Certification.

² Sobaszekiewicz Decl. ¶¶ 5, 9, ECF No. 287-2.

³ *Id.* ¶ 5.

⁴ Sobaszekiewicz Dep. 17:20–18:21, Ex. 71.

⁵ *Id.* at 231:13-17.

⁶ Sobaszekiewicz Decl. ¶¶ 15, 28-31, ECF No. 287-2.

⁷ Sobaszekiewicz Dep. 24:24–25:4, 231:18–232:7, Ex. 71.

⁸ *Id.* at 157:14–158:1, 167:2-14.

⁹ Sobaszekiewicz Decl. ¶ 38, ECF No. 287-2; Sobaszekiewicz Dep. 157:14–158:1, 167:2-14, Ex. 71.

¹⁰ Sobaszekiewicz Dep. 179:19–180:3, Ex. 71.

¹¹ Arballo Dep. 102:16-18, Ex. 44 (reports a FedEx linehaul employee speaking with him); Decl. of J. Arballo ¶¶ 7, 13, 15, ECF No. 287-2.

¹² Arballo Dep. 38:19-25, Ex. 44.

¹³ *Id.* at 54:12-18, 74:15-18.

¹⁴ Arballo Decl. ¶¶ 6, 24, 26, ECF No. 287-2; Arballo Dep. 52:11-12, 106:6-25, Ex. 44.

¹⁵ Arballo Dep. 29:1-8, Ex. 44.

¹⁶ *Id.* at 32:10-14, 33:16-34:18, 64:24-65:4, 65:13-20, 84:19-85:2; Arballo Decl. ¶ 22, ECF No. 287-2.

¹⁷ Arballo Dep. 79:10-24, 87:22–88:4, 66:3-5, Ex. 44; Arballo Decl. ¶ 23, ECF No. 287-2.

¹⁸ Arballo Dep. 102:9-14, Ex. 44; Arballo Decl. ¶¶ 10, 15, ECF No. 287-2.

¹⁹ Barker Dep. 54:18–55:20, Ex. 54; *see also id.* at 82:19–83:25.

²⁰ *Id.* at 34:21–35:10 (no benefits with Service Provider GHC); *id.* at 69:13–70:20, 74:7–76:17 (Service Provider Turner Holdings told him he would get benefits and paid vacation but he never did); *id.* at 79:1–80:3 (Sierra Valley provided two weeks paid vacation in first year, followed by one week paid vacation thereafter).

²¹ *Id.* at 66:22–67:24 (a half-hour lunch break was mandatory while based out of Tracy terminal); *id.* at 68:17–69:7 (while working for Service Provider Jaydan Logistics, people in the linehaul office said they would rather have drivers deliver trailers before taking any kind of break)

²² *Id.* at 66:22–67:24.

²³ Barker Decl. ¶ 25, ECF No. 287-2.

²⁴ Barker Dep. 33:18–34:4, Ex. 54 (biweekly salary with GHC); *id.* at 50:4-20 (with Jayden Logistics and Sierra Valley, paid a salary base with additional pay for extra work over a certain number of hours or over a certain number of miles per week); *see also id.* at 80:9-18, 87:2–88:2.

²⁵ Barker Decl. ¶¶ 18, 20, ECF No. 287-2.

²⁶ Dep. Daived Ginn 40:4–41:4, Ex. 35 (only communication is by accepting the route and possibly en route if there was a change to the route).

²⁷ Decl. of Daived Ginn ¶ 16, ECF No. 287-2.

²⁸ Ginn Dep. 30:20–31:24, Ex. 35 (declined insurance because he already had insurance through a private carrier and with the Veterans Administration).

²⁹ *Id.* at 62:23–63:8.

³⁰ *Id.* at 61:8–62:22.

³¹ *Id.* at 29:3-13.

³² *Id.* at 42:3-4, 43:25–44:19.

³³ Ginn Decl. ¶¶ 4, 11, 26, ECF No. 287-2.

³⁴ Ginn Dep. at 67:21-23, Ex. 35.

³⁵ Ferras Dep. 52:25–53:15, 53:22-23, 57:19–58:6, Ex. 36.

³⁶ *Id.* at 24:24–25:21.

³⁷ *Id.* at 23:8-18, 24:4-15, 91:22–92:4.

³⁸ *Id.* at 34:1-4, 34:14-16, 80:1-9.

³⁹ *Id.* at 60:21-23, 71:21–72:19.

⁴⁰ *Id.* at 26:9-13.

⁴¹ *Id.* at 19:24-25, 43:5-9, 69:19-24.

⁴² Ferras Decl. ¶ 28, ECF No. 287-2.

⁴³ Ferras Dep. 42:24–43:9, 69:15-24, Ex. 36.

⁴⁴ *Id.* at 55:10-15.

⁴⁵ Dep. M. Kennedy 24:16-24, 81:5-9, 110:23-111:4, 129:20-25, 130:19-131:4, Ex. 52; Decl. M. Kennedy ¶¶ 9, 15, 18, 19, ECF No. 287-2.

⁴⁶ Dep. M. Kennedy 15:2-10, 44:12-15, 45:11-14, 52:20-22, 53:10-21, Ex. 52.

⁴⁷ *Id.* at 37:8-14; 43:13-22.

⁴⁸ *Id.* at 62:7-15.

⁴⁹ *Id.* at 58:19–59:7, 61:9-17, 62:7-15, 68:3-12, 102:22–103:4, 114:20–115:6; Decl. M. Kennedy ¶¶ 9, 26, 27, ECF No. 287-2.

⁵⁰ Dep. M. Kennedy 18:2-5, 18:12-16, 22:24–23:5, Ex. 52.

⁵¹ *Id.* at 36:14-22, 37:15-21; 37:24–38:7, 70:9-25; Decl. M. Kennedy ¶ 23, ECF No. 287-2.

⁵² Dep. M. Kennedy 109:21-22, Ex. 52; Decl. M. Kennedy ¶ 25, ECF No. 287-2.

⁵³ Dep. M. Kennedy 101:21–102:16, 125:23–126:1, Ex. 52; Decl. M. Kennedy ¶ 11, ECF No. 287-2.

⁵⁴ Dep of Richard Perea 54:3–55:21, Ex. 60 (after initial assignment, got assignments from FedEx Ground dispatch; dispatch also called him direct to find out location on road).

⁵⁵ *Id.* at 24:10–25:3.

⁵⁶ *Id.* at 18:23–19:6; *see also id.* at 23:2-11; 75:3-16.

⁵⁷ *Id.* at 51:11–52:15.

⁵⁸ *Id.* at 51:11–52:15; *see also id.* at 63:24–64:24; 65:4-13; 67:4-14.

⁵⁹ *Id.* at 19:19–20:3; *id.* at 20:21–24.

⁶⁰ Perea Decl. ¶ 19, ECF No. 287-2.

⁶¹ Dep. of Richard Perea 85:19–24, Ex. 60.

⁶² Dep. of Joaquin Salas 43:23–25, 73:12–25, Ex. 46.

⁶³ *Id.* at 101:5–21.

⁶⁴ *Id.* at 24:11–12.

⁶⁵ *Id.* at 19:15–17, 40:2–3, 65:7–20.

⁶⁶ *Id.* at 55:13–19.

⁶⁷ *Id.* at 26:6–20.

⁶⁸ *Id.* at 13:11–20, 15:21–24,

⁶⁹ *Id.* at 24:6–10, 39:24–40:1, 47:21–23, 60:18–24, 69:3–5.

⁷⁰ *Id.* at 26:21–23 (Service Provider did not pay for time spent waiting to fuel), 69:25–70:4 (not paid for time waiting at the station).

⁷¹ *Id.* at 64:16–25.

⁷² *Id.* at 17:5–18:6 (testifying that his contractor got him a uniform after about six to eight months); *id.* at 59:25–60:6 (testifying that he did not wear a uniform for Service Provider Darver).

⁷³ Dep. of Edward Scott 28:17–23, Ex. 39.

⁷⁴ Decl. of Edward Scott ¶¶ 7, 12, ECF No. 287-2.

⁷⁵ Dep. of Edward Scott 30:21–23, Ex. 39.

⁷⁶ *Id.* at 77:10–18.

⁷⁷ *Id.* at 68:4–19, 69:1–14.

⁷⁸ *Id.* at 73:3–14.

⁷⁹ Decl. of Edward Scott ¶¶ 12–14, 24, ECF No. 287-2.

⁸⁰ Dep. of Edward Scott 21:19–25, Ex. 39.

⁸¹ *Id.* at 35:9–36:2, 36:25–37:18, 40:2–7.

⁸² Compare Decl. of Edward Scott ¶¶ 17–18, ECF No. 287-2, with Dep. of Edward Scott 99:24–100:14, Ex. 39.

⁸³ Dep. of Edward Scott 75:22–76:2, Ex. 39.

⁸⁴ Dep. of Kim Smock 42:4–43:4, Ex. 50 (testifying that FedEx Ground would call him more than once a month to tell him there was a change in the route).

⁸⁵ *Id.* at 65:21–25 (testifying that he “only reported to FedEx,” “never to anybody for N & V Transport”); *id.* at 68:13–69:8, 70:8–11 (only communicated with FedEx Ground regarding his schedule).

⁸⁶ *Id.* at 25:8–15.

⁸⁷ *Id.* at 57:10–16.

⁸⁸ *Id.* at 59:2–16.

⁸⁹ *Id.* at 30:6–31:2.

⁹⁰ *Id.* at 23:13–22.

⁹¹ *Id.* at 53:10–11 (not paid overtime); *id.* at 53:24–54:16 (not paid for the weekly mileage reports, monthly maintenance reports, transport of vehicles to the repair shop, time spent changing tires or vehicle maintenance); Decl. of K. Smock ¶ 3, ECF No. 287-2.

⁹² Dep. of Kim Smock 83:1–24, Ex. 50 (wore uniform every day, although no one told him that he had to wear it).

⁹³ Tennant Decl. ¶ 2, Ex. 78.

⁹⁴ *Id.* ¶¶ 6–7.

⁹⁵ *Id.* ¶ 7.

⁹⁶ *Id.* ¶ 4.